



DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY

In the Matter of:

Micei International

Respondent

08-BIS-0005

ORDER RELATING TO
MICEI INTERNATIONAL

WHEREAS, the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), notified Micei International, of Skopje, Macedonia (“Micei”) in 2008 that it initiated an administrative proceeding against Micei pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (the “Act”),² through the issuance of a Charging Letter to Micei in 2008 that alleges that Micei committed fourteen violations of the Regulations in 2003;³

WHEREAS, an Administrative Law Judge (“ALJ”) previously issued a Recommended Decision and Order in this proceeding containing findings of fact and

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2012). The alleged violations occurred in 2003. The governing provisions of the EAR are found in the 2003 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2012 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2012 (77 Fed. Reg. 49699 (Aug. 16, 2012)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

³ See 74 Fed. Reg. 24,788 (May 26, 2009).

conclusions of law, including, inter alia, that Micei was in default under Section 766.7 of the Regulations, and the then-Acting Under Secretary of Commerce for Industry and Security affirmed the ALJ's recommended default order through a Final Decision and Order dated May 14, 2009 (the "May 14, 2009 Order");

WHEREAS, Micei subsequently filed petitions for review of the May 14, 2009 Order, with the U.S. Court of Appeals for the District of Columbia Circuit and submitted briefs raising various challenges to the order (Appellant/Petitioner Brief filed Nov. 16, 2009, and Reply Brief filed Dec. 30, 2009).⁴

WHEREAS, the May 14, 2009 Order became effective on May 26, 2009, but subsequently, on July 24, 2009, BIS issued an Order Staying Enforcement of Final Decision and Order Pending Appeal with regard to the May 14, 2009 Order;⁵

WHEREAS, on July 16, 2010, the U.S. Court of Appeals for the District of Columbia Circuit issued its Decision and Order transferring Micei's petition for review to the U.S. District Court for the District of Columbia.⁶ Accordingly, Micei's petition is currently pending as Civil Action Number 1:10-cv-01237 (JDB) (the "petition for review");

WHEREAS, BIS and Micei have entered into a Settlement Agreement pursuant to Section 766.18(b) of the Regulations, whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein;

⁴ See *Micei International v. Department of Commerce*, Nos. 09-1155 and 09-1186 (D.C. Cir.).

⁵ See 74 Fed. Reg. 38,394 (August 3, 2009).

⁶ See *Micei International v. Department of Commerce*, 613 F.3d 1147 (D.C. Cir. 2010).

WHEREAS, the Settlement Agreement contains a provision that, if I approve the terms of the Settlement Agreement and issue this Order, the parties are required to jointly submit to the District Court within five days of my issuance of this Order a stipulation of dismissal with prejudice with regard to Micei's petition for review; and

WHEREAS, I have approved the terms of such Settlement Agreement.

IT IS THEREFORE ORDERED:

FIRST, as set forth in the Settlement Agreement, Micei shall implement an Export Management and Compliance Program no later than six months from the effective date of this Order. Said Export Management and Compliance Program shall be in substantial compliance with the BIS compliance guidelines, which are available from the BIS web site at http://www.bis.doc.gov/complianceandenforcement/emcp_guidelines.pdf, and which are incorporated herein by reference. A copy of Micei's Export Management and Compliance Program shall be submitted in English to the Department of Commerce, Bureau of Industry and Security, Office of Exporter Services, Export Management and Compliance Division, Attn: Tom Andrukonis, 14th St. & Pennsylvania Ave., NW, Washington, D.C. 20230 ("BIS Export Management and Compliance Division") no later than six months from the effective date of this Order.

SECOND, as set forth in the Settlement Agreement, Micei shall complete two audits of its compliance with U.S. export control laws (including recordkeeping requirements), with respect to all exports or reexports that are subject to the Regulations. The results of the audits, including any relevant supporting materials, shall be submitted in English to the BIS Export Management and Compliance Division at the address listed in the paragraph above. The first audit shall cover the period from January 1, 2012, through December 31, 2012, and the related report shall be due to the BIS Export

Management and Compliance Division no later than January 31, 2013. The second audit shall cover the period from January 1, 2013, through December 31, 2013, and the related report shall be due to the BIS Export Management and Compliance Division no later than January 31, 2014. Said audits shall be in substantial compliance with the EMS sample audit module, which is available on the BIS web site at http://www.bis.doc.gov/complianceandenforcement/revised_emcp_audit.pdf, and shall include an assessment of Micei's compliance with the Regulations. In addition, where said audits identify actual or potential violations of the Regulations, Micei shall promptly provide copies of the pertinent air waybills and other export control documents and supporting documentation to the BIS Export Management and Compliance Division.

THIRD, as set forth in the Settlement Agreement, the full and timely implementation of the Export Management and Compliance Program, as set forth above, and the timely completion and submission of the audits, as set forth above, are hereby made conditions to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Micei. Accordingly, if Micei should fail to fully or timely implement the Export Management and Compliance Program, or to timely complete and submit either of the audits as agreed to by the Parties and as set forth above, the undersigned may issue an Order denying all of Micei's export privileges under the Regulations for a period of one year from, respectively, the date by which the Export Management and Compliance Program is to be implemented or the date by which the results of the completed audits are to be submitted.

FOURTH, that the Charging Letter, Settlement Agreement and this Order shall be made available to the public following the dismissal with prejudice of Micei's petition for

review, along with the order of dismissal with prejudice by the District Court of Micei's petition for review.

FIFTH, this Order shall become effective, upon entry of an order of dismissal with prejudice by the District Court of Micei's petition for review, shall constitute final agency action in this matter, and shall supersede and void the May 14, 2009 Order.

Eric L. Hirschhorn
Under Secretary of Commerce
for Industry and Security

Issued this 11 day of October, 2012.

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